

Application No. 10/602,515

Filed: June 24, 2003

TC Art Unit: 3744

Confirmation No.: 8865

REMARKS

Claim 1 is pending in the present application. The Examiner has rejected claim 1 under 35 U.S.C. § 103. Applicant has amended claim 1 above. The amendments to claim 1 have support within the specification such that new matter has not been presented herein. Applicant respectfully submits that claim 1 should be pending on entry of the above amendments.

The above amendments to the claims should not be construed as acquiescence to the rejections by the Examiner and were provided solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in the present or a separate application(s).

Applicant also requests reconsideration and withdrawal of the rejections by the Examiner in view of the remarks herein.

Claim Rejections 35 U.S.C. § 103

The Examiner has rejected claim 1 under 35 U.S.C. § 103 as obvious based on U.S. Patent No. 4,824,454 to Kondo et al. in view of U.S. Patent No. 4,592,205 to Brodbeck et al. and U.S. Patent No. 5,327,729 to Yanai et al. The Examiner has suggested that Kondo et al. in combination with Brodbeck et al. and Yanai et al. disclose the system of claim 1. To the contrary, Applicant submits that Kondo et al. do not teach a pipe connecting between the lower parts of a condensing and preservation chambers in which the pipe is entirely disposed below an upper surface of a liquid phase part of a preserving vessel as required by claim 1.

Applicant also underscores that by having such a pipe entirely disposed below the upper surface of the liquid phase part of a preserving vessel, the overall cooling capacity of the claimed system

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would be improved vis-à-vis the system taught by Kondo et al. In particular, such an improvement in cooling capacity can be derived from (1) minimizing the physical dimensions of the claimed system and (2) reducing the extent of cryogen vaporization. By contrast, the system disclosed in Kondo et al. requires a pipe extending from above and into the liquid phase part of a preserving vessel. Such an extended pipe configuration increases the physical dimensions of the system taught by Kondo et al. The disclosed system of Kondo et al. would also tend to experience an accelerated extent of cryogen vaporization due to the pipe perturbing the upper surface of the liquid cryogen within the vessel.

Lastly, Applicant indicates that neither Brodbeck et al. nor Yanai et al. can be combined so as to overcome the deficiencies of Kondo et al. Indeed, Applicant also underscores that Brodbeck et al. and Yanai et al. do not provide any sort of general teaching or suggestion to be combined with Kondo et al. For example, both references are wholly unrelated to preserving a specimen within a preserving vessel. Brodbeck et al. and Yanai et al. also do not suggest any type of nitrogen circulation as such circulation would be unnecessary given that neither reference teaches the preservation of a specimen. Thus, based on the foregoing, Applicant submits that the rejection of claim 1 by the Examiner as obvious under 35 U.S.C. § 103 should be withdrawn.

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CONCLUSION

In view of the remarks presented herein, reconsideration and withdrawal of the rejections by the Examiner and allowance of the application with the pending claim are respectfully requested.

The Examiner is also encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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